

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA PRIORITY

UNCLAS STATE 193846

E.O.: 11652 N/A

TAGS: ETRD, BR

SUBJECT: CIVIL AVIATION, RECIPROCAL EXEMPTION FROM CUSTOMS
DUTIES AND TAXES ON AIRCRAFT SUPPLIES

REF: 6399, 146637

1. SECTIONS 309 AND 317 OF THE TARIFF ACT OF 1930, AS
AMENDED, PROVIDE THAT AIRCRAFT OF FOREIGN REGISTRY MAY
RECEIVE EXEMPTION FROM PAYMENT OF US CUSTOMS DUTIES, AND
INTERNAL REVENUE TAXES IMPOSED BY REASON OF IMPORTATION,
ON SUPPLIES IMPORTED FOR USE IN THEIR INTERNATIONAL OP-
ERATIONS TO AND FROM THE US. EXEMPTION IS GRANTED ON THE
BASIS OF A FINDING BY THE SECRETARY OF COMMERCE THAT THE
FOREIGN COUNTRY IN QUESTION ACCORDS "SUBSTANTIALLY RECI-
PROCAL PRIVILEGES" TO AIRCRAFT OF US REGISTRY. AIRCRAFT
SUPPLIES INCLUDE FUELS AND LUBRICANTS, COMMISSARY AND
OTHER CONSUMABLE SUPPLIES AND GROUND EQUIPMENT.

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2. SECTION 4221 OF THE INTERNAL REVENUE CODE CONTAINS A
PROVISION, SIMILAR IN ALL MATERIAL RESPECTS TO SECTION
309 OF THE TARIFF ACT, WHICH EXEMPTS FOREIGN AIRCRAFT
FROM PAYMENT OF INTERNAL REVENUE TAXES ON AIRCRAFT

SUPPLIES, EXCEPT GROUND EQUIPMENT, PROCURED IN US DOMESTIC MARKET FOR USE IN THEIR OPERATIONS TO AND FROM THE US. SIMILARLY, THIS EXEMPTION IS CONTINGENT ON A FINDING BY THE SECRETARY OF COMMERCE THAT THE FOREIGN COUNTRY IN QUESTION GRANTS "SUBSTANTIALLY RECIPROCAL PRIVILEGES" TO US AIRCRAFT.

3. THE DEPARTMENT HAS BEEN REQUESTED ON BEHALF OF TIA TO RESCIND ITS FINDING OF RECIPROCITY WITH RESPECT TO BRAZIL INASMUCH AS BRAZIL HAS REFUSED TO GRANT TIA AVIATION FUEL TAX EXEMPTION. IN SO REFUSING BRAZIL DOES NOT APPEAR TO GRANT TAX EXEMPTION ON FUEL SUPPLIES FOR US AIRCRAFT WHICH IS "SUBSTANTIALLY RECIPROCAL" TO THAT GRANTED BY THE US.

IT SHOULD BE NOTED THAT US LAW PROVIDES THAT EXEMPTION CAN BE MADE IN A CASE WHERE THE FOREIGN GOVERNMENT GRANTS OR WOULD GRANT "SUBSTANTIALLY RECIPROCAL PRIVILEGES."

4. WE AGREE (REFTEL 6399) THAT THIS AN OPPORTUNE TIME TO MAKE SECOND PRESENTATION TO EMBRATUR AND CERNAI ON MATTER (SEE LOU STATE 146637).

5. THE EMBASSY IS REQUESTED TO CONTINUE REPORTS ON THE STATUS OF TIA'S FUEL TAX EXEMPTION AND ANY FORSEEABLE CHANGES. BEFORE PROCEEDING ON TIA'S REQUEST, COMMERCE WILL AWAIT FURTHER INFORMATION FROM EMBASSY ON STATUS OF TIA'S FUEL TAX EXEMPTION. KISSINGER

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